IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 3622 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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KRISHNA TEXTILE THROUGH PROPRIETOR & 1 - Petitioner(s)

Versus

SURAT TEXTILE TRADERS CO OP BANK LTD. & 1 - Respondent(s)

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Appearance :
MR ASHISH M DAGLI for Petitioner(s) : 1 - 2.
MR DHIRENDRA MEHTA for Respondent(s) : 1,
RULE SERVED for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 09/10/2006

ORAL JUDGMENT

1. Heard learned advocate Shri Dagli for the petitioners and Shri D.K.Mehta for the respondent no.1-Bank.

2. The petitioners challenges an order dated 11/8/2005 passed by the Cooperative Tribunal in Misc. Civil Application No.151/04. By the said application the Cooperative Tribunal was pleased to reject the application filed by the petitioners seeking condonation delay. Appeal for the petitioners, therefore, automatically stood rejected.

3. Case of the petitioners is that though initially an application was filed before the Board of Nominees on 15/9/2003 for receiving certified copy of the order of the Board of Nominees, the same was not received by the petitioners pursuant to the application dated 15/9/2003. They thereafter obtained copy on 23rd February, 2004. In the appeal memo filed by the applicant, which was treated as application for condonation of delay as well as in

this petition, the petitioners have made similar averments. No reply has been filed by the respondent bank controverting these factual averments of the petitioners. Though the Tribunal in its impugned order recorded that the petitioners were aware about the order passed by the Board of Nominees of 15/9/2003, the Tribunal did not taken into account the explanation of the petitioners regarding non availability of the certified copy of the order.

4. Considering all these aspects of the matter, the petitioners are given an opportunity to appeal before the Cooperative Tribunal.

5. Accordingly, the order passed by the Cooperative Tribunal dated 11/8/2005 is quashed. Petition is disposed of. Rule is made absolute. The petitioner will however pay cost of Rs.10,000/- to the Bank. No costs.

(Akil Kureshi, J.)

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